

REMARKS

Claims 5-14 are now present in this application. Claims 5 and 9 are independent.

Claims 13 and 14 have been added, and claims 5 and 9 have been amended.

Reconsideration of this application, as amended, is respectfully requested.

Rejections Under 35 U.S.C. § 102 and § 103

Claims 5 and 9 stand rejected under 35 U.S.C. § 102 as being anticipated by Mayer. Further, claims 5-7 and 9-11 stand rejected under 35 U.S.C. § 103 as being obvious over Ryan et al. in view of Mayer and Claims 8 and 12 stand rejected as being obvious over Ryan et al. in view of Mayer and Durazzani. These rejections are respectfully traversed.

Complete discussions of the Examiner's rejections are set forth in the Office Action, and are not being repeated here.

While not conceding the appropriateness of the Examiner's rejections, but merely to advance prosecution of the instant application, Applicants respectfully submit that independent claim 5 has been amended to recite a combination of elements in a damper including a cabinet forming an exterior, a tub in the cabinet to hold water, a drum in the tub to hold a detergent and the water, a rotational shaft penetrating into the tub to be coupled with a rear side of the drum, a motor transferring a driving force to the rotational shaft and a damper provided between the tub and the cabinet to attenuate vertical, horizontal, and front-to-rear vibrations transferred to the tub by a rotation of the drum, the damper comprising first and second dampers provided at left and right sides under a bottom of the tub to attenuate the vertical and horizontal vibrations and a third damper provided in rear of the tub and under the bottom of the tub to attenuate the front-to-rear vibration. Applicants respectfully submit that this combination of elements as set forth in independent claim 5 is not disclosed or made obvious by the prior art of record, including Mayer and Ryan et al.

Mayer discloses two dampers 11 under the tub and two springs 7 above the tub. The springs 7 are not dampers and allow the tub to vibrate freely. Most significantly, Mayer's suspension assemblies are disclosed as tension springs which are provided "in a way that leaves the washer assembly 2 'free to vibrate'" (see col. 2, lines 23-42).

In other words, Mayer's suspension assembly tension springs 7 are explicitly disclosed to permit vibration. There is no disclosure whatsoever that Mayer's suspension assembly tension springs 7 dampen vibrations of the washer assembly 2 or that Mayer's suspension assemblies are dampers. Mayer discloses the use of only two dampers under the tub, neither in the rear of the tub. Instead, the driving motor of Mayer is located at the lower side of the tub in the rear.

Another way of saying this is that Mayer does not disclose providing a third damper whatsoever, let alone at the rear of and under its tub (all of Mayer's spring assemblies are shown to be located around the outer side surface of the tub and not in the rear of the tub), or serve as a basis for providing a third dampener at the rear of and under Ryan's tub. Instead, Mayer discloses providing tension spring assemblies to permit free vibration of a washer assembly (col. 2, lines 40-42).

So, Mayer clearly does not anticipate the invention recited in claims 5 and 9, which positively recite a third damper provided in the rear of the tub to attenuate the front-to-rear vibration.

Also, if one of ordinary skill in the art were to modify Ryan in view of Mayer, as proposed in the new rejections, one would provide a suspension assembly of tension springs 7 in Ryan to do just the opposite of what is claimed, i.e., to permit vibration of the tub instead of dampening it.

In other words, the new rejections do not make out a *prima facie* case of obviousness of claims 5-7 and 9-11 because the art relied on would not provide a third damper in the rear of and under the tub of Ryan who does not disclose the use of any dampers under the tub. Instead, the art relied on provides a suspension assembly that permits vibration rather than dampens it. Thus, the proposed combinations of references used in the rejections under 35 USC §103, and the Mayer reference, used in the rejection based on 35 USC §102(e), actually teach away from the claimed invention instead of rendering it obvious. The disclosure of Durazzani et al., relied upon in the rejection of claims 8 and 12, does not cure the above noted deficiencies.

Accordingly, the newly presented rejections of record do not make out a *prima facie* case of either anticipation of, or obviousness of, the claimed invention.

Reconsideration and reversal of these new rejections of record are respectfully requested.

In reply to the Examiner's responses to arguments found on page 4 of the Examiner's Answer, Applicants respectfully present the following arguments.

The Examiner's reliance on Ryan's statement that preferences for the exact number of the tub suspension subassemblies 18 and 20, the location of their attachment points to the tub 14 and cabinet 16, and the stiffness and other structural parameters of each cylinder 44, rod 46, piston 48, and spring 50 may be determined by computer simulation and/or experiment for a particular horizontal axis clothes washing machine 10, as is within the purview of those skilled in the art, would render the claimed invention obvious, is speculation at best. It is well settled that a rejection under 35 U.S.C. § 103 cannot properly be based on speculation but must be based on objective factual evidence of record. *See In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), *cert. denied*, 389 U.S. 1057 (1968). *See, also, In re GPAC Inc.*, 35 USPQ2d 1116 at 1123 (Fed. Cir. 1995) and *Ex parte Haymond*, 41 USPQ2d 1217 at 1220 (Bd. Pat. App. & Int. 1996).

The statement that Applicants have not provided a showing of unexpected results improperly tries to shift the Office's burden of making out a *prima facie* case of obviousness to Applicants.

The statement that Applicants have not provided a showing of how the claimed invention is unobvious also improperly tries to shift the Office's burden of making out a *prima facie* case of obviousness to Applicants.

The statement that it is clear from Mayer that it was known at the time of the invention to locate a dampening device in the rear of a washing machine is irrelevant to the claimed invention, which does not recite that language. Actually, independent claim 5 positively recites a combination of features, including a damper provided between the tub and the cabinet to attenuate vertical, horizontal, and front-to-rear vibrations transferred to the tub by a rotation of the drum, the damper comprising first and second dampers provided at left and right sides under a bottom of the tub to attenuate vertical and horizontal vibrations, and a third damper provided in the rear of the tub to attenuate front-to-rear vibrations. Moreover, as discussed above, Mayer contains absolutely no disclosure of a third damper provided in the rear of the tub to attenuate front-to-rear vibrations, as claimed.

Conclusion

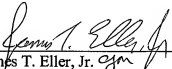
In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination. In view of this, reconsideration of the rejections and allowance of all the claims are respectfully requested.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chris McDonald, Reg. No. 41,533 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.14; particularly, extension of time fees.

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Respectfully submitted,

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